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SUMMARY RECORD OF THE 783rd MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 23 May 2002, at 3 p.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of Belgium (continued) (CRC/C/83/Add.2; CRC/C/Q/BELG/2; written replies of the Government of Belgium to the questions in the list of issues (document without a symbol distributed in the meeting room in English and French))

1. At the invitation of the Chairperson, the members of the delegation of Belgium took seats at the Committee table.

2. Mr. HENDERICKX (Belgium) said there appeared to be a certain amount of confusion surrounding the definition of the child in paragraph 217 of the report. The Flemish community defined a child as anyone aged 0 to 18, but special assistance to young people continued to be available to persons aged 18 to 20 or 21.

3. Mr. PARMENTIER (Belgium) said the same point could be made in relation to the French community.

4. With regard to private provision of services to children, he said the Belgian State had a long tradition of subcontracting to partner providers. Private providers were nevertheless approved only if they met certain criteria: they should be non-profit organizations and their staff should receive proper initial and in-service training, inter alia. Fourteen different types of service were provided to children and families at risk or otherwise in need of support, principally to avoid placing children in institutions wherever possible. The emphasis was on providing support within the community.

5. Mr. LELIEVRE (Belgium) said service providers were certified by special committees, which checked whether they met the required standards and received subsidies depending on the number of staff employed. Their accounts and overall approach were subject to regular inspections following certification. Foster families were also subject to certification.

6. Mr. PARMENTIER (Belgium) said various types of information were distributed to children and parents. The most recent example was a magazine sent to all French-speaking families giving advice, not so much on how to avoid ill-treating children, but rather on how to treat children well. Information on preventing ill-treatment was distributed to professionals working with children.

7. There had been various campaigns to make children themselves aware of the Convention and their rights, chiefly through the office of the Delegate-General for Children's Rights and the Observatory on Children, Youth and Assistance to Young People.

8. Mr. LELIEVRE (Belgium) said the basic instrument for assistance to children was the Écoute-Enfants telephone helpline, which children could use to speak to professionals in complete and guaranteed confidentiality. Children and families could also phone his office, the office of the Delegate-General, for information on where to obtain professional advice on various issues.

9. As a complement to the numerous information campaigns conducted by NGOs, his office had produced various publications making the Convention more accessible to children and their families by presenting it in simpler language. A Braille transcription was also available to the blind and partially-sighted. Other campaigns had aimed to increase the Delegate-General's visibility and to raise children's awareness and level of prudence with a view to increasing their personal safety.

10. He said measures had been taken to protect children in school from pornography, racism and violence through the Internet, in part using commercial filtering software, but also using a free programme that could be downloaded by the public at large, and through information on the Internet and its potential risks.

11. Mr. PARMENTIER (Belgium) said filtering was not the only protection mechanism applied: it was important to enable users to take some responsibility and to make their own decisions and filtering was not an enriching procedure in that respect. Three resource centres had been established to help children and teachers in schools understand and learn to "decode" the overwhelming amount of information available on the Internet.

12. Replying to a question by Ms. Al-Thani, he said all primary and secondary schoolchildren, without discrimination, had access to the Internet at school.

13. In reply to a question by Ms. Tigerstedt-Tähtelä, he said the French-language television channel had been broadcasting a news programme for and by children since 1994, and the written press also catered for children in their news coverage.

14. Mr. HENDERICKX said that Flemish-language television had at one time also had such a news programme, but there had been little interest and it had been replaced by a current affairs chat show that gave children an opportunity to express their views on important issues.

15. Mr. LELIEVRE said children also participated every year in an multi-generational show involving 350 people aged from under 6 to over 60, both able-bodied and with disabilities. There were to be 12 performances in 2002, including one on 20 November, Children's Rights Day.

16. Mr. BERTHOLOMÉ (Belgium) said his country had a long tradition of participation by children in civic and governmental processes. The foremost example of that was the Youth Councils for the different communities, which gave opinions on policies concerning young people, either on their own initiative or at the Government's request. In addition, more and more children's and youth councils were being established at the local level, some with their own budgets to teach and foster notions of citizenship among children from primary school age upwards.

17. The challenge in implementing the Convention was to involve young people in youth-related policy decisions in a democratic way and, since the Convention made no mention of selection procedures for such participation, it was for the State party to make its own arrangements and ensure that they were effective.

18. Mr. LELIEVRE (Belgium) said participation should not be confused with representation and certainly not with manipulation. His office had received complaints concerning local politicians who had set up local youth councils in the run-up to municipal elections, only to dismantle them at a later stage. His office was now very vigilant in that regard. There were currently 70 local youth councils working satisfactorily and more participated every year in the Children's Rights Day awareness-raising campaigns.

19. Mr. BERTHOLOMÉ (Belgium) said the United Nations Children's Fund (UNICEF) "What do you think?" programme was acquiring increasing importance within the French-speaking community as a means of involving children and young people in civic processes.

20. Mr. DEBRULLE (Belgium), turning to the subject of children's participation in the judicial process, said Committee members had rightly drawn attention to the rather limited progress that had been made with regard to children's right to be heard. Particular mention had been made of article 931 of the Judicial Code, which did no more than make it possible for children to be heard in procedures concerning them, notably in the context of divorce or separation. In fact, as mentioned in the written replies, Parliament was already debating a proposed amendment to article 931 - which would provide for obligatory hearings for any child aged 12 or over and make it impossible for a minor's own request for a hearing to be turned down - as well as a proposal to establish a minors' counsel and a proposal to enable children to take judicial action themselves.

21. Ms. KARP said the State party should indicate whether the proposed legislation relating to the minor's right to be heard provided for children under the age of 12. She would be interested to learn why the cut-off age had been established at 12 years.

22. Mr. DEBRULLE (Belgium) said that the draft legislation in question was still under discussion. At its current stage of preparation, the draft legislation provided that a minor aged 12 or over must be summoned in proceedings in which he or she was involved, and a child under the age of 12 deemed by a judge to be capable of forming his or her own views could make a request to the judge to be heard.

23. Mr. LELIEVRE (Belgium) said that under current legislation, a request by a minor to be heard could be dismissed and there was no possibility of appeal. A judge could decide to refer the case to a professional such as a social worker or a psychologist, meaning that the child would not be heard by the judge responsible for making the decision about his or her future. It was hoped that the new draft legislation would address those issues. A provision should be introduced to ensure that a child had the right to approve the record of his or her own hearing.

24. Mr. DEBRULLE (Belgium) said that the draft legislation reforming adoption which was currently being discussed made specific reference to the Convention. It provided that any decision regarding the adoption of a child would be made in the child's best interest, in conformity with international definitions. It also provided for the reduction to 12 of the age at

which persons must consent to their own adoption and provided that a judge had to determine whether or not a child under the age of 12 was capable of forming his or her own views regarding the adoption. A law adopted in 2001 provided that the minor's view was accorded greater attention in matters of guardianship.

25. Mr. HENDERICKX (Belgium) said that as a first step towards making children's participation in the functioning of the school system a reality, the Flemish Parliament had adopted a decree in 1999 to introduce student councils at secondary-level education. The councils were convened at the request of one third of the pupils or the head teacher. It was hoped that similar councils would soon be introduced at primary level. Another initiative of the Flemish community, in cooperation with the National Commission on the Rights of the Child, had been the introduction of a campaign bus that stopped at primary schools across the region to encourage children to participate in the functioning of their school.

26. Mr. PARMENTIER (Belgium) said that priority attention was given to encouraging the participation of children in all the communities. The Children's Forum held immediately prior to the United Nations special session on children in May 2002 had illustrated just how constructive a dialogue with children could be. In the French community, a "Democracy or Barbary" unit had been created in 1994 and was responsible for raising awareness of human rights, particularly among children at primary school level. In 2002, the Minister for Basic Education in the French community had organized a series of "philosophy workshops", giving primary schoolchildren the opportunity to reflect on and discuss matters relating to everyday life. Pupils of all religions were encouraged to participate in the discussions. "Ouvrir mon quotidien" was another new initiative, whereby two daily newspapers were provided free of charge to every class of pupils in the final year of primary education, to encourage children to follow current events; in addition, journalists were encouraged to visit schools. The Mission Decree of 1997 provided for the creation of participation councils in schools, comprising staff, school governors, parents and, at the level of secondary education, pupils. Council members could decide whether or not to allow primary education pupils to participate.

27. Mr. DEBRULLE (Belgium) said various amendments had been made in recent years to the Protection of Young Persons Act of 1965. Article 53 of the Act, which provided for the temporary placement of a minor in a prison for a maximum of 15 days, had been repealed in January 2002, in accordance with the Committee's concluding observations (CRC/C/15/Add.38), adopted following consideration of Belgium's initial report. The repeal date had been postponed several times to allow the communities to find alternative solutions to prison detention, which included improvements to the educational and welfare services provided to juveniles and the promotion of social reinsertion programmes. Improvements had been made to the system of open community establishments for minors. A new federal law adopted in March 2002 provided that boys over the age of 14 could be placed on a temporary basis in appropriate closed community establishments, in exceptional circumstances. A new closed detention centre, specifically designed to receive and provide individual assistance to juveniles, had recently been opened to address the shortage of places in such establishments following the repeal of article 53. The situation was due to be evaluated in October 2002. Under the new law, the text

of the Convention had to be made available to minors placed in detention and any placement had to be in strict compliance with articles 37 and 40. The approval of a juvenile court was required if a minor was to be detained for over 15 days; the detention period could be renewed for a maximum of two months.

28. The Council of Ministers had recently agreed on a new policy to modernize the Protection of Young Persons Act. Special attention would be accorded to compensatory measures, mediation and community service. The current mechanism, which allowed juvenile courts to relinquish jurisdiction of cases involving minors aged 16 to 18 if the available correctional measures were considered inadequate and refer the minor to the public prosecutor, would be reviewed; efforts would be made to provide such minors with adequate social and educational support. A new provision would be included in the Criminal Code establishing the criminal responsibility of adults who incited children to commit crimes in order to avoid criminal charges.

29. Mr. CITARELLA said it was unclear why the federal law of March 2002 specified that only boys over the age of 14 could be placed in closed detention centres. The State party should indicate whether a different system had been established for girls. He failed to understand why the new law allowed a minor to be detained in a closed establishment for a period of up to two and a half months, when the repealed article 53 of the Protection of Young Persons Act allowed a minor to be detained in prison for a maximum of 15 days.

30. Mr. HENDERICKX (Belgium) said that girls could be placed in closed detention centres only if there was no appropriate alternative. Usually, it was easier to find placement in care for girls. He pointed out that children who had been kept in prison for 15 days under article 53 had not usually been released afterwards; they had generally been sent to closed community establishments.

31. Ms. AL-THANI said that the State party should provide further details about the conditions in the new closed detention centre. She asked what factors would be considered during the forthcoming review of the system. She expressed concern that closed establishments were not ideal places for the rehabilitation of children.

32. Ms. KARP said she failed to understand why the new detention centre was different to other closed detention centres. She welcomed the fact that the State party was endeavouring to find alternative measures to detention, although the measures mentioned had been largely administrative. More information should be provided about steps that had been taken to protect the rights of child defendants affected by such measures.

33. The CHAIRPERSON said the State party should indicate whether the age of criminal responsibility had been reduced, given that under the new law boys as young as 14 could be placed in detention centres. The State party should explain whether or not boys were placed in pre-trial detention; if that was the case, were they granted access to legal assistance? Was there a mechanism to decide whether or not the charges brought against the child were well founded? He would be interested to know whether the boys were made aware of the alternatives available to them. Given that the decision-making process in Belgium was, in general, relatively slow, he would also be interested to learn why the new legislation had been adopted so quickly.

34. Mr. DEBRULLE (Belgium) said that after the repeal of article 53 in January 2002, it had become clear that the alternative detention services were insufficient; therefore the federal law of March 2002 had been introduced swiftly to respond to a fairly urgent situation. The age of criminal responsibility had not changed although in some situations it was difficult to know what to do with certain minors.

35. Mr. HENDERICKX (Belgium) said that the 1965 Act did not fully respect the rights of children because it considered them to be irresponsible, and that alternative approaches such as mediation had been developed to juvenile delinquency in the communities in an effort to make the Act more flexible. Although the Act did not use the specific term, if a risk of a second offence existed it provided for the temporary detention of young offenders until the judge took a decision on whether they should be permanently imprisoned. Therefore, the way in which cases were handled by the courts was not different to the 1965 Act, but other options had since become available. The March 2002 law had been the federal Government's response to the shortage of places in closed temporary detention establishments, and the communities had participated on the understanding that efforts to reform the 1965 Act would continue.

36. Mr. LELIEVRE (Belgium) said that, as the Delegate-General for Children's Rights, he had been opposed to the March 2002 law and the Everberg detention centre in question. The Everberg centre had been a political reaction to the serious and urgent situation created by the repeal of article 53 and the failure to reach agreement on legislation to replace the 1965 Act. The protection system created by the 1965 Act had placed the young offender at the centre of concerns, whereas the Everberg centre had been established for reasons of public safety. He hoped that political reforms would bring an end to that interim measure and ultimately bring about the closure of the Everberg centre. The second area covered by the proposed reform concerned minors aged 16 to 18 who had committed particularly serious offences in respect of which rehabilitation measures were inadequate. On the basis of a medical and psychological report, they could be sent before judges in the adult criminal justice system. The third area covered by the bill involved the prosecution of adults who used minors to commit offences on their behalf, for example begging, prostitution and child labour. He hoped that the reform would make it possible to prosecute people for such offences and he had presented a list of recommendations to the members of the Belgian Government aiming to ensure that the reform respected the rights of the child.

37. Mr. DEBRULLE (Belgium) said that the Everberg centre should be seen in a more general context and as part of the aims of the three areas of reform mentioned. He recommended that Committee members should read the law of 1 March 2002 to familiarize themselves with it. There were currently 10 boys detained at Everberg with seven educational psychologists from the Flemish community and 10 from the French-speaking community. Under such circumstances he found it difficult to accept comparisons of Everberg to a prison.

38. Ms. KARP asked why the answer to the shortage of placements in supervised detention was to send children to closed establishments.

39. The CHAIRPERSON said he wondered what criteria the Government would apply when measuring the success of the interim measure. There appeared to be a certain confusion in the Belgian justice system, in that the State was having difficulty maintaining the protection

approach of the 1965 Act while dealing with very serious crimes committed by young people. There was provision for referring 16-17 year olds to the court of assizes, while those under 16 were subject not to criminal provisions but child protection provisions. He wondered whether the usual guarantees for suspects under criminal law existed, and if not, whether the system needed to be overhauled to create a juvenile criminal law.

40. Mr. DEBRULLE (Belgium) said that the possible reform of criminal legislation was a very difficult and important issue. Some minors were particularly violent and posed a problem that was difficult to resolve. Yet the more detention places were created, the more were used. It was therefore necessary to consider all aspects of criminal sociology and juvenile delinquency and to recognize that modernization was required for the protection of young people.

41. Mr. LELIEVRE (Belgium) pointed out that the Protection of Young Persons Act made the communities responsible for implementing the measures decided on by children's judges. Both the French and Flemish communities dealt with minors with many difficult problems, including drug addiction. The French community had closed establishments with educational aims and any security aspects necessary were implemented within the education system: multidisciplinary teams of psychologists, social workers, sports activities and workshops. In other systems such as the one in operation at Everberg, although guarantees existed for those detained, the establishment was under the public sector and had been set up in the interests of public safety, meaning that the priorities were different. In a system which focused on young delinquents' problems it was difficult to know what to do with minors where the protection system was limited. The Government was aiming to create a system which covered the largest number of delinquents possible rather than focus on the small core of serious delinquents.

42. Mr. CITARELLA asked whether in addition to creating a specific establishment for minors committing serious crimes the new law did not also contain very precise conditions for the entry of delinquents into such centres. He wished to know whether such centres came under federal law and whether there were different types of legislation at federal and community level.

43. Mr. PARMENTIER (Belgium) noted that much progress had already been achieved. For example, article 53 had covered an average of 250 French-speaking minors and at present the French community had places for 415 minors. By reviewing the rules it had been possible to ensure a better rotation of young people so that they could leave the establishments earlier with the help of post-institutional follow-up and be rehabilitated in the community. At present there were 90 young people who had been released under such conditions. The French community had also reviewed the number of young people in its charge released into the community who could be offered educational and voluntary services and an additional 204 spaces had been created for delinquents to be assigned to general social workers.

44. Mr. HENDRICKX (Belgium) said that since the repeal of article 53 on 1 January 2002 the conditions for entry into the Flemish closed institutions had been changed. Given the need to reserve places for the most serious cases, those entering were essentially those youths leaving Everberg because a judge had decided they should be placed in a closed institution (and some were also sent home). The number of places available for boys had doubled since 1 January 2002.

45. The CHAIRPERSON invited the members to put questions to the delegation concerning adoption reform, discrimination, abuse and neglect and tax measures for poor families.

46. Ms. KHATTAB requested replies to her previous questions regarding the monitoring of the economic impact on children in the case of discrepancy between federal and community competence, racial incidents involving refugees and asylum-seekers and freedom of religious teaching.

47. It was encouraging to see that the number of asylum-seekers to Belgium had declined in 2001 due to increasing stability in the Balkans; however, she would like to know whether Belgium had any form of international cooperation with countries exporting asylum-seekers.

48. With regard to religious teaching, five religions were officially identified in the report but it was noted that some taxpayers were not convinced of the value of the exercise. She therefore wondered whether the Government should begin an awareness-raising campaign to enhance mutual understanding of the different religions in Belgium. She also wondered about the educational needs of migrants and how to accommodate them in the education system. What measures was the Government taking to establish an atmosphere conducive for migrants, especially given the problem of "concentration schools" containing large numbers of migrants?

49. Mr. AL-SHEDDI asked whether education, particularly basic education, was completely free or whether fees were payable by some students. He also asked about foreign children's right to education in a situation where a certain percentage of foreign children was reached in a school. Did a prospective new pupil then have to attend a school further away? Also, given that Belgium had not ratified the 1960 Convention against Discrimination in Education, he wondered whether the Government planned to do so.

50. Ms. KARP said that there seemed to be some private schools in Belgium that did not regard themselves as subject to the Convention's aims and provisions; she wondered what the approach of the education authorities was to such schools. With regard to quality of education, she referred the delegation to the Committee's general comment on the aims of education, and asked to what extent human rights and the rights of the child were included in the education curriculum.

51. Ms. OUEDRAOGO asked what steps the Belgian authorities took to combat sexual exploitation of children and, in particular, to deal with trafficking in girls, cases of which had been alleged in a number of countries, including Belgium. She also wished to know what attention was paid to begging, a problem that seemed to involve mostly children of immigrants, legal and illegal. With regard to disabled children, it seemed that not all were deemed entitled to allowances. She would like to know what grant criteria were applied and whether appeal was possible in cases of refusal.

52. The CHAIRPERSON said it seemed that current draft legislation, provided that unaccompanied asylum-seeking minors could be refused entry at the frontier and sent to a centre to be regarded as extraterritorial; he wondered what law would apply there. There was also provision for a minor to be sent back to the country of origin, or a third country, for purposes of family reunification; although the latter purpose was laudable, families were not always willing

to be reunified in practice. He wondered whether any short-term measures were being taken to deal with such circumstances and, in particular, to ensure that unaccompanied children were provided immediately with an appointed guardian.

53. Mr. DEBRULLE (Belgium) said it might be better if some of the questions were dealt with later by means of written replies. His delegation had recently appeared before the Committee on the Elimination of Racial Discrimination, to whose concluding observations he referred the Committee. On that subject, there was a Belgian institution to promote equal opportunities and combat discrimination; it was completely autonomous, its findings were authoritative and it wielded considerable influence. It was empowered to institute proceedings on behalf of complainants and secure the award of damages where appropriate. Perhaps that body could be invited to provide the Committee with details of its work.

54. Mr. PARMENTIER (Belgium) said that the country's educational system upheld the principle, enshrined in the Constitution, that education should be free for all. The fees applied in certain schools related not to basic education but to ancillary costs such as teaching materials. No quota system was applied anywhere with regard to any group or class, although efforts were made to avoid the development of "ghetto" situations bad for integration - a concern not confined to education. Affirmative action programmes to benefit vulnerable groups were applied at all levels; they included measures to assist unaccompanied immigrant minors. Measures in the French community, pursuant to the Decree of June 2001, aimed at total integration into society for children and young persons. In the German-language community any student wishing to pursue an education in French could do so.

55. With regard to the disabled, to qualify for assistance a person must be of Belgian nationality, a stateless person or someone having resided at least five years in the country. However the relevant Decree made provision to extend facilities to persons not fulfilling any of those requirements. Cover was therefore available to any disabled person. With regard to assistance to families with special needs, applicants themselves were able to discuss the various criteria, such as income level, and their views were taken into account. The aim at all times was to prevent social exclusion.

56. Mr. HENDERICKX, referring to disabled children, said that the assistance provisions previously not available to children coming from abroad had been open to all since December 2000. Despite problems stemming from excess of demand over current capacity, there was no discrimination. Talks were being held with a view to obtaining more resources. The provisions of a draft decree, which should be promulgated in September 2002, would make a subsidy available to schools for affirmative action programmes provided that certain criteria were met.

57. Ms. TIGERSTEDT-TÄHTELÄ noted that the Committee on the Elimination of Racial Discrimination, in its concluding observations on Belgium, had requested demographic statistics disaggregated by gender and national and ethnic groups. She wondered whether Belgium intended to register ethnic groups.

58. Mr. DEBRULLE (Belgium) said that questions relating to demographic statistics would perhaps be better dealt with by means of a written reply. With regard to questions about ill-treatment and corporal punishment, an amendment to the Constitution was currently being considered, relating to article 52 bis, aimed at complete protection of the child's personality. Although the Convention's provisions had no direct impact on Belgium's domestic law except through special enactments, there were a number of relevant provisions in the Penal Code. For example, article 398 made acts of violence causing injuries punishable by imprisonment from three to six months, and the Law of 28 November 2000 provided for heavier sentences in cases of injuries inflicted by persons in the capacity of guardian. Articles 425 and 427, moreover, provided sanctions against persons found guilty of lack of care of minors. A further provision enabled practitioners such as doctors and psychiatrists to report cases of violence against minors without incurring breach-of-confidentiality charges.

59. Belgium had recently ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and measures were in hand to incorporate its provisions into domestic law. There would thus be legal provisions to deal with cases of corporal punishment inflicted on minors.

60. The CHAIRPERSON said that the issue was not simply legislative measures but the effective prohibition of corporal punishment, including that inflicted by parents.

61. Ms. KARP asked whether the criminal provisions would cover all cases of child abuse, not simply corporal punishment as such.

62. Mr. DEBRULLE (Belgium) said it would be difficult to determine exactly what constituted corporal punishment and how it was actually viewed in the daily life of Belgian families.

63. Mr. LELIEVRE (Belgium) said that, in the French community, the Decree on Youth sought to clarify the definition of dangerous situations for children and young persons, without trying to establish categories. The law provided that, before intervening, the relevant authority must determine whether a child's physical or psychological integrity had been threatened. All the appropriate services must be involved before a case was reported to the police, since the intention was not necessarily to bring criminal charges against perpetrators but to provide counselling and related help, seek legal constraints if necessary and take criminal action only if required.

64. Ms. AL-THANI, summing up the discussions with the Belgian delegation, said that the debate had been stimulating and informative; the occasional disagreement among delegation members themselves on certain points was itself encouraging. She thanked the delegation for its participation and cooperation with the Committee.

65. Mr. DEBRULLE (Belgium) said that his delegation had appreciated the exchange of views and the atmosphere in which it had taken place. The regular reporting cycle was fruitful, enabling Belgium to measure compliance with the commitments undertaken and take any measures needed to improve it. The Committee's questions and comments would be addressed to the various federal and federated authorities, and he was confident that improvements would continue to be made in Belgium's reports to the Committee.

66. The CHAIRPERSON thanked the delegation for the detailed and valuable discussion, and said he hoped that the Committee's comments would be of assistance to Belgium in furthering the rights of the child.

The meeting rose at 6 p.m.